

# **A Preliminary Assessment: 2001 Court Restructuring Plan Impacts on Three Iowa Counties**

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A preliminary study is one that is conducted to develop an initial framework of analysis and/or to gain an initial assessment to provide enough understanding of the research issue so as to inform the direction of a more complete and comprehensive data collection, study analysis, and policymaking deliberation. On November 8, 2001, the Iowa General Assembly and Governor approved a 4.3 percent across-the-board state budget reduction. This reduced the Judicial Branch budget by \$5.5 million. In anticipation of and in response to fiscal concerns, the Judicial Branch announced plans for restructuring the Iowa court system. Iowa citizens and community and interest group leaders are interested in having the impacts of the proposals identified and assessed to assist in informing state and local discussions and future decisions. It is the result of this interest for which the Department of Economics and Iowa Vitality Center at Iowa State University have undertaken this study. The Iowa State Bar Association contributed funding for the project. The author has developed a significant track record and expertise in conducting numerous studies on related public finance and government structure issues for Iowa policymakers, leaders and citizens during the past 15 years. He is solely responsible for directing this study, the study findings and the conclusions. The purpose of study is to provide an objective assessment of the impacts and to gather local observations and perspectives that may be useful in public discussions and planning next steps toward future public decisions.

## **I. Executive Summary**

This preliminary analysis was designed: (1) to assess the impacts of court restructuring decisions implemented since October 1, 2001, (2) assess the impact of the Court Restructuring Plan announced by the Chief Justice and then tabled in December, and (3) to identify alternatives and suggestions that may be helpful in achieving efficiency, productivity, quality service, and customer convenience in the future.

The analysis is based on secondary information sources and site interview parameters and observations gathered in 3 Iowa counties selected for geographic, size, and circumstance diversity. Site visits were conducted in Fayette, Wright, and Adams Counties on January 9, 10, and 14, 2002.

### **Summary of Impacts Already Implemented**

The findings show that the 4.3 percent across-the-board cuts imposed by the General Assembly and Governor were not uniformly distributed across-the-board in the Judicial Branch. The layoffs announced by the Chief Justice represented a 23 to 30 percent staff reduction for the Court Clerk offices in the sample of 3 counties visited.

Due to the reduction in clerk staff, many rural clerk of court offices have reduced the number of hours that their offices are open to the public to allow time for staff to process court documents. During non-public office hours, office doors are locked and no telephones are answered to allow clerk staff to process court documents. The site visits found that 2 of 3 counties reduced public access hours by 2 to 3 hours per day. As a result, public access time has been reduced by 1.8 to 35 percent in the counties visited.

The staffing cuts translated into a 19.2 to 23.4 percent reduction in state funding for operating the clerk of court offices in the sample of counties. Before the recent cuts, fines, fees and court costs collected by Clerk offices in the sample of counties and forwarded to the state's general fund represented 117 to 171 percent of total estimated costs for operating the Clerk offices. After the recent cuts, the revenues generated from within each county and sent to the state general fund represented 152 to 223 percent of the total office costs estimated for Clerk offices.

Clerks in the sample and participants in 2 of 3 counties generally agreed that Clerk offices are now understaffed. Periodic conversion and purging of historical court documents to electronic format has been discontinued. Serious concerns were raised about increasing backlogs and customer service failures due to understaffing.

The composite county impact assessment shows that discontinuance of magistrate services in outlying cities does provide annual incremental savings to the Judicial Branch budget of \$3,307 to \$9,214 depending on the magistrate's residence assumption. However the impact assessment also shows that total incremental costs increase for the justice system as a whole. The cost increases for others are 4 to 16 times greater than the incremental savings to the Judicial Branch budget. Thus, the system impact on Iowa citizens is to increase costs by \$41,018 to \$52,832 for the outlying city losing magistrate services rather than to generate systemic savings for Iowa taxpayers.

## Longer Term Assessment of the Court Restructuring Plan

The "Initial Concept for Restructuring Court System" was reviewed by the Iowa Judicial Council on November 16, 2001. This study was initiated after the plan was announced. After less than a month of public input, the restructuring plan was tabled by the Chief Justice on December 12, 2001. The rationale for continuing the study was that there was still a need to assess the potential impacts, to understand the groundswell of opposition that emerged, and to identify local suggestions for future directions.

The Court Restructuring Plan recommended that the Judicial Branch implement electronic technology to enable on-line public access to the courts, 24-hours a day, 7 days a week. Specifically the plan called for statewide implementation of an electronic document management system (EDMS) and Internet access to court information. When asked about how long it would take the court system to convert to an electronic document management system, the most typical response of judges, attorneys, and clerks during the site visits was 5 years. Those commenting indicated their conclusions were based on previous experiences with the Iowa Court Information System (ICIS) and the system used in federal courts. In addition, funding for a pilot EDMS project was eliminated by recent cuts. Therefore, assumptions regarding impact assessments were based on current levels of technology existing in Court Clerk offices. Eventual adoption of EDMS and Internet would reduce but not likely eliminate the estimated incremental costs.

Based on parameters found during site visits, this study concludes that some incremental savings would accrue to the Judicial Branch budget in the form of travel time and costs for judges and court reporters. However, offsetting incremental costs for clerk of court document transportation were also identified. In addition, local participants observed the plan would require additional space for courtrooms, judge and court personnel, and clerk of court document processing and storage.

So in sum, the Court Restructuring Plan results in incremental costs—not savings—to the Judicial Branch. Furthermore, based on parameters developed from site visits to three counties, this study finds incremental costs for local government are 3.6 times larger than incremental costs for the Judicial Branch and incremental costs for the private sector and citizens are 9 times larger than incremental costs to the Judicial Branch. An approximation of the statewide impacts using the estimated impacts for the composite county are presented Table 1.1.

**Table 1.1 Estimated Statewide Direct Impacts of 2001 Court Restructuring Plan Based on Composite County Impacts.**

Items Assessed for Impact	Statewide Impact Estimate
Incremental Savings to Judicial Branch Budget	\$ 226,845
Incremental Costs to Judicial Branch Budget	\$ 916,397
<b>Net Incremental Costs Judicial Branch Budget</b>	<b>\$ 689,552</b>
Incremental Local Government Costs	\$ 2,492,668
Net Costs to State & Local Government	\$ 3,182,220
Incremental Private Sector Costs	\$ 6,284,068
<b>Total Incremental Costs</b>	<b>\$ 9,466,288</b>

### Suggestions to Improve Court Performance Within the Present Structure

Serious concerns were raised about increasing backlogs and customer service failures likely to accumulate over the next year if clerk staff cuts are not restored. With varying degrees

of qualifications, most participants in all three counties agreed that raising fines, fees, and court costs should be considered as a means for avoiding further staff cuts and for restoring many of the staff positions already eliminated. A 7.4 percent increase for all fines, fees and court costs statewide would raise \$5.5million. Some fines and fees are set at constant dollar amounts. An annual inflation adjustment of 2.5 percent alone would justify more than a 25 percent increase over a decade period of time. Several people indicated that many fees and costs have not been increased for several years and they provided anecdotal information regarding higher fines, fees, and costs experienced in other states. Several other suggestions are provided in the full report.

### **Alternative Structures to Improve Court System Performance**

Several alternative structures for improving court system performance were discussed during site visits. A sample of topics included: (1) continuing the current system with incentives to encourage local restructuring, (2) returning fees, fines, and court cost revenues to the county general funds along with returning the Court Clerks to county level positions as they existed prior to the 1980s. While some participants expressed preference for one concept or another, no consensus emerged. In some cases, opposition was expressed.

Participants in one county would have preferred a two-county sharing model be considered first or a district or multi-county approach similar to schools. Participants express the view that few consolidations result in savings, therefore a case-by-case approach involving willing partners with state incentives is preferred to mandatory consolidation. Local leaders and citizens felt they know better what they need and how to generate savings. Therefore a new state and local study process is needed if local stakeholders and state court decision-makers are to identify systemic savings, costs, and performance impacts that might result.

Perhaps the greatest level of agreement from the site interviews was expressed regarding the desire to be consulted locally and to have influence on restructuring plans before such plans are announced from Des Moines. It was observed that Iowa has experienced three rounds of school consolidations. In the school consolidation model, restructuring is not mandated by state fiat. Instead state incentives have been provided. Local leaders decide which districts they wish to enter into discussions with. Feasibility studies are conducted on finances, programs, facilities, and all aspects of the potential consolidation. The Department of Education provides technical expertise for conducting the comprehensive feasibility studies. The final decisions rest with the people most directly involved.

When asked for recommendations on how the legislature should approach the issue, participants listed legislators, judges, court administrators, clerks, attorneys, law enforcement, supervisors, auditors, citizens, abstractors, accountants, and economists should be among those involved in a study. Some suggested the recent drivers' license issuance study was a model that should be considered. In that case, a legislative study involving several stakeholders was conducted after a four-year pilot demonstration project was conducted in six southwest Iowa counties. Based on the legislative study recommendations, structural change was offered to other rural counties on a voluntary, rather than a mandatory basis. Several site visit participants suggested pilot projects should be considered for any new EDMS system and for a variety of other innovative court restructuring changes before final decisions by state and local leaders and citizens.

**For the full report see:** <http://www.econ.iastate.edu/outreach/community/courtstudy2002.pdf>

## II. Assessment of Initial Court Restructuring Plans Already Implemented

This analysis is based on secondary information sources and parameters and observations provided from site interviews in 3 Iowa counties selected for geographic, size, and circumstance diversity. A questionnaire was developed to guide site interviews. Site visits were conducted in Fayette, Wright, and Adams counties on January 9, 10, and 14, 2002. The design of the analysis was (1) to assess the impacts of court restructuring decisions implemented since October 1, 2001, (2) assess the impact of the Court Restructuring Plan announced by the Chief Justice and then tabled in December, and (3) to identify alternatives and suggestions that may be helpful in achieving efficiency, productivity, quality service, and customer convenience in the future.

During each site visit, the plan was to conduct a series of separate interviews with six target groups: (1) clerks, (2) judges and magistrates, (3) county attorney and other attorneys, (4) law enforcement, (5) supervisors and other local officials, and (6) abstractors, realtors, economic developers and other private sector representatives. All target groups were represented in at least 2 of 3 counties visited. Forty five individuals representing the various target groups were interviewed during the site visits.

### Elimination of District Clerk of Court Staff Positions

On November 5<sup>th</sup>, 2001 the Judicial Branch announced plans to eliminate approximately 185 jobs statewide by January 2002. This announcement was made in anticipation of a special session of the General Assembly scheduled for November 8, 2001. Anticipated across-the-board cuts were 4.3 percent or \$5.5 million for the Judicial Branch. The scheduled layoffs included 125 FTEs in clerk of court offices, primarily in rural areas. Site assessments show clerk staff cuts have been implemented since October 1, 2001. These cuts are represented in Table 2.1 for the 3 counties visited in this study.

**Table 2.1 Changes in Clerk Staff FTEs for Selected Rural Counties.**

	County A	County B	County C
<b>Population 2000</b>	22,008	14,334	4,482
<b>Staff FTEs Oct. 2001</b>	6 ¾ FTEs for clerk staff & court attendants	5 FTEs for clerk staff & court attendants	2 3/5 FTEs clerk staff, part-time clerk shared, no court attendants
<b>Staff FTEs Jan. 2002</b>	4 ¾ FTEs for clerk staff & 0 court attendants/who will now travel from District Center 1-2 days/week	3 ¾ FTEs for clerk staff & 0 court attendants/who will now travel from District Center 1 day/week	2 FTEs for clerk staff, no court attendants. [Would have lost 1.6 FTE (-61.5%) if 2 FTE minimum/office was not instituted.]
<b>Net Change</b>	29.6% staff cut (2 FTEs or 80 hrs/wk); Increase in court attendant travel time & travel cost.	25% staff cut (1 ¼ FTEs or 50 hrs/wk); Increase in court attendant travel time & travel cost.	23% staff cut (3/5 FTEs or 24 hrs/wk); Transportation decrease for cut in shared clerk staff.

The findings show that the 4.3 percent across-the-board cuts imposed by the General Assembly and Governor were not uniformly distributed across the board in the Judicial Branch. The layoffs announced by the Chief Justice represented a 23 to 30 percent reduction in staff for each of the Court Clerk offices in the sample of 3 counties visited.

Due to the reduction in clerk staff, many rural court clerk offices have reduced the number hours that their office is open to the public to allow time for staff to process court documents. During non-public office hours, office doors are locked and no telephones are answered to allow clerk staff to process court documents. The site visits found that 2 of 3 counties reduced public access hours by 2 to 3 hours per day.

Some counties--such as County C--have reached or are close to the minimum staffing level of 2 FTEs allowed per office and have not reduced office hours for public access by a great measure. However this would have been different for County C had the staffing been reduced to below 2 staff persons in accordance with the Honsell caseload formula. Had this been the case, the current workload would have been doubled for the remaining staff member. But with the minimum staff requirement, County C has reduced public access only during the noon hour on days that a staff member is sick or on vacation. In a recent example, a member of the Clerk's office staff worked on Saturday following an illness so document processing would not fall behind.

**Table 2.2 Change in Office Hours Available for Public Access in Selected Rural Counties.**

	County A	County B	County C
<b>Public Office Hours Oct. 2001</b>	8:00 am - 4:30 pm	8:00am - 4:30pm	8:00 am - 4:30pm
<b>Public Office Hours Jan. 2002</b>	9:00 am - Noon 1:00 pm - 3:30 pm	9:00am - 3:30pm	8:00am - 4:30pm Periodic noon hour closings
<b>Net change in public access hours</b>	3 hour reduction in public access hours (-35.3%)	2 hour reduction in public access hours (-23.5%)	Periodic noon hour closings during sick & vacation days (-1.8%)

For the selected sample of 3 rural counties, Table 2.2 shows public access time has been reduced by 1.8 to 35 percent. A number of observations regarding changes in performance due to the Clerk staff reductions recently implemented are outlined below.

- Judicial hearings and procedures are being delayed in 2 of 3 counties because attorneys and judges are less able to be assured that certain documents will be processed by the Clerk of Courts on time. Some attorneys expressed fear that legal time limits for certain judicial proceedings will be exceeded due to understaffing in Clerk offices.

- Clerk staff in 2 of 3 counties observed constant phone ringing and phones were not answered during non-public office hours when Clerk staff were processing court documents. Judges, attorneys, and law enforcement officials are increasingly frustrated because they cannot access the Clerk's offices during non public office hours.
- Judges, County Attorneys and other court officials in 2 of 3 counties report that phone callers who initially tried the Clerk's office then called them. They say callers are increasingly frustrated by increasing numbers of calls made to the justice system to answer questions. Judges, attorneys and law enforcement officers expressed increasing frustration because they are receiving calls that can more appropriately be answered by Clerks, but now their work is interrupted by additional calls during the Clerk's non-public office hours.
- Clerks universally indicated they now have no staff time available for converting historical court documents to electronic format, CD storage, and purging of old paper documents. Whereas prior to the cuts, conversion was periodically accomplished when all other court document processing was caught up.
- Site interviews specifically probed participants as to whether the Clerk's offices were overstaffed, adequately staffed or understaffed before and after staffing cuts. The clerk staff opinions universally indicated Clerk's offices were adequately staffed in October 2001 and are now understaffed in January 2002. The opinion expressed by most participants in 2 of 3 counties indicated Clerk's offices were adequately staffed in October 2001 and are now understaffed in January 2002.
- One clerk indicated that a survey of Clerk's offices in the region was conducted last year and the results indicated that most would have been willing to forgo pay raises as an alternative to staff cuts. Other state employees had offered a similar proposal that has been accepted by the Governor and General Assembly. However, this option was either not considered or was ignored by court system.
- All clerks, some attorneys and some judges expressed concern about negative indicators that are now developing under the new staffing patterns during what is normally considered a slack period of the year for court service demand. This is due to the number of rural attorneys who become involved in tax preparation. They expect the performance of the court system to be even more severely impacted after the April 15 tax filing deadline when many rural attorneys return to their normal court business agenda.
- When asked about implications if no changes in current staffing are made for the next 12 months, most respondents in 2 of 3 counties expected serious backlogs and court system customer service failures to develop. Law enforcement indicated concern over increases in local costs for housing prisoners as backlog increases. Attorneys raised concerns about lost cases due to inability to get

paperwork done. Charges are more likely to be dismissed or plea-bargained due to inability to meet time limit constraints for hearings and trials.

- One clerk had initiated discussions with county supervisors to present a request and rationale for county funding support for an additional part-time position to assist the Clerk's office. Another clerk indicated that such a strategy would not likely be successful because historically the supervisors paid for remodeling and updating facilities requested by district court administration and then district court administration was moved to another county. Officials in the third county indicated that such a request would likely be preferable to unilateral court administration decisions that would move the Clerk's office out of the county.
- Several participants expressed beliefs that funding cuts could have been avoided either by raising revenues or providing appropriate legislative rationale for sparing cuts to the Judicial Branch. Several participants suggested Iowa's fines and fees are lower than surrounding states.
- Several people raised issues of fairness since the legislature applied a 4.3 percent across-the-board cut, but the court system targeted judicial system cuts differently and disproportionately to rural counties, by unilaterally dropping the population factor in the Honsell formula without public hearings or public input on the cuts.
- Potential gender bias issues were raised about whether those facing cuts came disproportionately from female employees in lesser-paid clerk positions. More highly paid judicial and administrative positions were apparently not subject to initial cuts.
- Concerns were raised about the apparent strategy to cut staff in offices that have more contact with the public relative to other judicial and administrative positions.
- In one county, emergency procedures were required and ultimately caused more time and travel to resolve the commitment for a mental patient, family, law enforcement, and mental health professional because the Clerk's office closed to the public before the paperwork could be filed.
- Participants expressed that many people requiring use of the justice system are better able to get off of work at the beginning and end of the day or over the noon hour. The new office hours therefore forces many people to take off of work for longer periods and during less convenient times for employers and employees.
- As a normal course of business most abstractors and banks have their staff do searches of court documents before most credit decisions, mortgage decisions, and real estate transfers. Typically, abstractors and banks have conducted these searches at the beginning or end of the day during their nonpublic office hours.



- One law enforcement official indicated that arrest warrants are not getting pulled by Clerk's staff for people whose warrants have been deleted by judicial proceedings, which potentially increases liability for law enforcement, if people are arrested when their case has been resolved.
- One law enforcement official cited two examples of systemic problems that can develop as Clerk staff face increasing pressure to get work done in an environment that in their view was inadequately staffed. In one case, Clerk's staff inadvertently attached a protective order application to papers served in a physical abuse case. As a result, the accused immediately read the plaintiff's comments and was potentially more likely to retaliate.
- In another case, emergency mental commitment papers forwarded to law enforcement had all the required information but did not include an address. This required extra time for the law enforcement and clerks office to find the original order and transfer the appropriate address. Office pressures from understaffing are likely to cause (1) an increase in time required to correct an increasing number of systemic lapses and (2) an erosion in customer-oriented satisfaction, convenience, and performance relationships.

#### **Local Costs and Revenue Outflows from Three Iowa Counties**

Prior to the 1983, court fines, court costs and fee revenue collected by the Court Clerk's office was deposited in the respective county's general fund. While these revenues are currently deposited in the state general fund, revenues generated from each county are still reported. However, county-by-county clerk office costs are no longer reported. Ability to match revenues and costs for each operating unit is often regarded as the most important performance indicator in the private sector. Therefore, an attempt was made to estimate costs prior to the staff reduction and after the staff reduction based on staff and salary information and assumed relationships to total costs. This approach generated an estimate of cost reductions and net revenue outflows generated in the 3 counties selected for site visits.

The revenues and incremental cost estimates in Table 2.3 show that Clerk's offices generated revenues that were higher than the amount of total costs for operating the Clerk's offices prior to the staffing cuts. While definitive conclusions cannot be based on 3 observations, the sample of 3 rural counties provide an indication that a net revenue transfer out from rural counties was occurring in the sample prior to recent staffing cuts.

The staffing cuts represented a 19.2 to 23.4 percent cut in state funding for operating the clerk of court offices in the sample of counties. Before the recent cuts, revenues generated from each county and forwarded by the Clerk's office to be deposited in the state's general fund represented 117 to 171 percent of total estimated total costs for operating the Clerk's office. After recent cuts, the revenues generated from within each county and sent to the state general fund represented 152 to 223 percent of the total costs estimated for Clerk's offices. Therefore, in contrast to being a drag on state revenues,

rural leaders argued that revenues generated in rural Clerk offices are sufficient to pay local Clerk office costs and provide additional revenues to support other court functions.

**Table 2.3 Revenues Generated, Estimated Costs, and Net Revenue Outflow for 3 Iowa Counties Resulting from Elimination of Clerk Office Staff Positions.**

	<b>County A</b>	<b>County B</b>	<b>County C</b>
County Court Revenues: Subtotal Filing Fees, Court Costs, Fines Excl. City, County & Other	\$525,022	\$352,165	\$130,505
Estimated District Clerk of Court Office Costs * Oct 2001/incl. Attendants	\$307,142	\$220,000	\$111,428
<b>Estimated Annual Net Clerk Revenue Outflow from County Oct 2001</b>	<b>\$217,880</b>	<b>\$132,165</b>	<b>\$19,077</b>
Estimated District Clerk of Court Office Costs * Jan 2002/incl. Attendants	\$235,143	\$177,857	\$85,714
<b>Estimated Annual Net Clerk Revenue Outflow from County Jan 2002</b>	<b>\$289,879</b>	<b>\$174,308</b>	<b>\$44,791</b>
Incremental Change in Revenue Outflow due to Clerk Office Staff Cuts	\$71,999	\$42,143	\$25,714
Additional Incremental Costs for Court Attendant Travel	\$5,990	\$2,995	Travel cost savings accrued to private citizen
<b>Net Incremental Change in Revenue Outflow due to Clerk Office Staff Cuts</b>	<b>\$66,009</b>	<b>\$39,148</b>	<b>\$25,714</b>

\* Benefits, supplies, equipment, & other office costs are assumed @ 30 percent of clerk staff salary costs.

#### **Discontinuance of Magistrate Services in Outlying Cities**

On November 5, 2001, the Iowa Judicial Branch also announced plans to end magistrate services in communities other than county seat towns. This action affected 11 communities including Belle Plaine, Cedar Falls, Evansdale, Grinnell, Hudson, Iowa Falls, LaPorte City, Missouri Valley, Oelwein, Perry, and Shenandoah. The Judicial Branch subsequently decided not to close the Ames office, which includes magistrate court, district associate court, and part of the Story County Clerk of Court office.

One of the counties impacted by the reduction in magistrate services in outlying cities was included in the sample of counties selected for site visits. Site visit interviews and secondary data available from secondary sources were used to construct the impact assessments in Tables 2.4 and 2.5.

Typically a staff member of the Clerk of the District Court assembled files at the Clerk's office, traveled to the outlying city, and returned with files to the clerk's office. Only the travel time is considered in the impact assessment because assembling the files and entering judgments would typically be conducted regardless of whether the magistrate services are provided in the county seat or outlying city.

**Table 2.4 Composite County Impact Assessment of Outlying City Magistrate Service Discontinuance—with Magistrate Residing in Largest City of County.**

<b>A. Incremental Savings</b>		
Magistrate	Assumes Magistrate lives in outlying city	0*
Clerk staff	2 hours/week x \$15/hr x 52	\$ 1,560
	60 miles/trip x 2 trips/week x \$.28/mi x 52	\$ 1,747
<b>Subtotal A: Incremental Savings to Judicial Branch Budget</b>		<b>\$ 3,307</b>
<b>B. Incremental Costs</b>		
Magistrate *	1 hour/trip x 2 trips/week x \$40/hr x 52	\$ 4,160
	60 miles/trip x 2 trips x \$.28/mile x 52	\$ 1,747
City Police	1 hr/trip x 4 trips/week x \$10/hr x 52	\$ 2,080
	60 miles/trip x 4 trips x \$.28/mi x 52	\$ 3,494
City Attorney	1 hr/trip x 1 trip/week x \$38/hr x 52	\$ 1,976
	60 miles/trip x 1 trip x \$.28/mi x 52	\$ 874
Citizens	1 hr/trip x 30 trips/week x \$10/hr x 52	\$15,600
	60 miles/trip x 30 trips/week x \$.28 x 52	\$26,208
<b>Subtotal B: Incremental Costs to Others</b>		<b>\$56,139</b>
<b>C. Net System Incremental Savings (Costs)</b>		<b>(\$52,832)</b>

\* Magistrate travel and time cost absorbed by magistrate living in largest city of county. However, in some cases the magistrate may live in the County Seat and under this alternative assumption the incremental impacts are represented in Table 2.5.

An important element in the assessment of outlying magistrate services is the assumed residence of the magistrate. Magistrates may live in the county seat, the largest city in the county, somewhere else in the county, or in a neighboring county. Table 2.4 represents the impacts in a county where the magistrate lives in the outlying larger community as was the case found in the sample of counties visited. Table 2.5 represents the impacts in a county where the magistrate lives in the county seat.

City council chambers or city offices are often used for magistrate services in outlying cities. Thus, the host city government at no cost to the state court budget typically provided facilities and utilities for magistrate services in outlying cities. For the impact assessment, it is assumed that the county currently provides adequate facilities

and utilities for conducting magistrate services at the county seat with no additional incremental savings or costs.

The composite county impact assessment shows that discontinuance of magistrate services in outlying larger cities does provide annual incremental savings to the Judicial Branch budget of \$3,307 to \$9,214 depending on the magistrate's residence assumption. However the impact assessment also shows total incremental costs for the justice system is 4 to 16 times greater than the incremental savings to the Judicial Branch budget. Thus, the system impact on Iowa citizens is to increase costs by \$41,018 to \$52,832 for each outlying city losing magistrate services rather than to generate systemic savings.

**Table 2.5 Composite County Impact Assessment of Outlying City Magistrate Service Discontinuance—with Magistrate Residing in County Seat.**

<b>A. Incremental Savings</b>		
Magistrate	1 hour/trip x 2 trips/wk x \$40/hr x 52	\$ 4,160
	60 miles/trip x 2 trips/wk x \$.28/mile x 52	\$ 1,747
Clerk staff	2 hours/wk x \$15/hr x 52	\$ 1,560
	60 miles/trip x 2 trips/wk x \$.28/mi x 52	\$ 1,747
<b>Subtotal A: Incremental Savings to Judicial Branch Budget</b>		<b>\$ 9,214</b>
<b>B. Incremental Costs</b>		
Magistrate *	Assumes Magistrate lives in County Seat	0
City Police	1 hr/trip x 4 trips/wk x \$10/hr x 52	\$ 2,080
	60 miles/trip x 4 trips/wk x \$.28/mi x 52	\$ 3,494
City Attorney	1 hr/trip x 1 trip/wk x \$38/hr x 52	\$ 1,976
	60 miles/trip x 1 trip x \$.28/mi x 52	\$ 873
Citizens	1 hr/trip x 30 trips/wk x \$10/hr x 52	\$15,600
	60 miles/trip x 30 trips/wk x \$.28 x 52	\$26,208
<b>Subtotal B: Incremental Costs to Others</b>		<b>\$50,232</b>
<b>C. Net System Incremental Savings(Costs)</b>		<b>(\$41,018)</b>

Much has been written regarding the conceptual and public policy aspects of compensation issues regarding externalities [Coase, R.H. *Journal of Law and Economics*. (1960): p.1-44]. Using Coase's theorem, outlying cities with discontinued magistrate services would likely be willing to offer to pay the state court system an amount greater than the estimated savings to the Judicial Branch budget in order to achieve a Pareto optimal solution (for a discussion of Pareto Optimality see Chapter 1 in *Modern Public Finance* by Herber, B.P. (1979) 4<sup>th</sup> edition.) Site visit field reports indicated offers were made from outlying cities to cover additional state court transportation costs and were presented to state court policymakers prior to discontinuance of magistrate services. However at the time of this study, all such offers from outlying cities have reportedly been ignored and/or rejected by state court policymakers—except for Story County.

### **III. Longer-Term Assessment of the Court Restructuring Plan**

The "Initial Concept for Restructuring Court System" was reviewed by the Iowa Judicial Council on November 16, 2001. This study was initiated after the plan was announced. After less than a month of public input, the restructuring plan was tabled by the Chief Justice on December 12, 2001. While tabling the plan, the Chief Justice indicated that he would pursue legislative authority to end the legal requirement that each county have a Clerk of Court, although he would maintain clerk offices in each county. According to one public quote by a member of the Judicial Council, "It was the Judicial Council's belief that once you reduced staff you need to reorganize to make for more efficient use of personnel."

After the original plan was tabled, study objectives regarding an assessment of the long-term impacts were reaffirmed. The rationale for continuing the study was that there was still a need to assess the potential impacts and to attempt to understand the groundswell of opposition that emerged. Doing so would provide insight into identification of future directions in court system improvement.

The Court Restructuring Plan would have reduced Clerk of Court services in 71 counties. These counties represented 1.067 million people or 36.4 percent of Iowa's 2000 population. Counties in this group ranged in population from 4,482 for Adams County to 50,149 for Clinton County. The average population for counties in this group was 15,029.

Regional court service centers were to be located in 28 counties. These counties represented 1.859 million people or 63.6 percent of Iowa's 2000 population. Counties in this group ranged in population from 9,133 in Clarke County to 374,601 in Polk County.

Ignoring issues of distance as they relate to access to justice, the announced rationale for selecting regional court service centers was to serve a population base of 50,000 people or more. A different rationale appears to have been used for at least 3 counties. Clinton County exhibited a population of 50,149 in the 2000 Census but was to lose clerk services to Scott County. On the other hand, Dallas and Warren Counties exhibited populations of 40,750 and 40,671 respectively but were selected as one-county regional court service areas even though they are both adjacent to one or more counties designated as a regional court service area.

Trials and magistrate services were to continue in all 99 counties, however all other judicial proceedings were to occur at regional court centers. Clerk offices would only be open part time in most of the 71 counties with reduced services.

Two of the 3 counties selected for site visits in this study were among the counties that would have reduced Clerk of Court services. The third county was designated as a court service center for surrounding counties. Site interviews from the latter county as well as from the other two counties indicated the primary cost to regional court service centers in recipient counties would be that of additional space for prisoners, clerk records, courtrooms, jury rooms and office space for judges, court reporters, and court attendants.

The Court Restructuring Plan also recommended the Judicial Branch implement electronic technology to enable on-line public access to the courts, 24-hours a day, 7 days a week. Specifically the plan called for statewide implementation of an electronic document management system (EDMS) and Internet access to court information.

In response, those participating in site visits generally questioned the ability of the court system to move quickly to an electronic document system. Some were even skeptical as whether it was a realistic long-term goal. Several people voiced concern that a majority of those who use the court system are disproportionately from lower income brackets and are less likely to own a computer or to have access to the Internet. When asked about how long it would take the court system to convert to an electronic document management system, the most typical response of judges, attorneys, and clerks during the site visits was 5 years. Those commenting indicated their conclusions were based on previous experiences with the Iowa Court Information System (ICIS) and the system used in federal courts.

It was observed that recent staff cuts would exacerbate the time and potential problems that would develop during implementation of an EDMS system. Court clerks universally indicated that recent staff cuts halted all clerk staff efforts to convert historical documents to electronic form due to the higher priority placed on keeping the current caseload current. Significant staff training time would likely be required to deploy a new system at a time when staff capacity appears to be short.

Several participants indicated that an electronic document management system pilot project was one of the first items eliminated when budget pressures became apparent during 2001. The clerks indicated office and technology equipment is typically purchased by the District Court Administration when and if funding is left over at the end of the fiscal year rather than being based on long term planning for technology equipment needs. As a result, impact assessments for the Court Restructuring Plan are based on the assumption of no change from current technology existing in the counties visited. If regionalization was to take place after EDMS implementation, then impacts presented in this study could potentially be reduced—but probably not eliminated.

Distance assumptions made in this study are likely to be conservative. Typically the distance between county seat towns in adjacent counties is 30 miles. Therefore a typical round trip would be 60 miles for most counties slated for court service reduction. However every third county in a four-county cluster is likely to be located diagonally to the regional court center requiring a round trip of approximately 120 miles. For purposes of this study, 60 miles is assumed for all counties slated for court service reduction.

For the 3 counties visited, less than half of the historical records have been converted to electronic form. Therefore most document research will need to be conducted at two locations, unless the historical records are also transferred to the regional court service center. For purposes of this study, historical records are assumed to reside in the outlying counties while new court records are kept at the regional court

center. Each target group was asked how the Court Restructuring Plan would affect their activities and how many weekly trips would be made to the regional court center. Table 3.1 represents an approximation of incremental savings and costs for a composite rural county with a population of 15,000 that would have experienced clerk service reductions.

**Table 3.1 Composite Rural County Estimates of Direct Incremental Savings & Costs for 2001 Court Restructuring Proposal.**

<b>Incremental Savings to Judicial Branch Budget</b>	<b>Subtotal</b>	<b>Total</b>
District Judge	\$2,571	
Court Reporter	\$ 624	
<b>Subtotal 1</b>		<b>\$ 3,195</b>
<b>Incremental Costs to Judicial Branch Budget</b>		
Clerk of Court Document Transportation	\$3,307	
Annual Cost of New Regional Courthouse Space	\$9,600	
<b>Subtotal 2</b>		<b>\$12,907</b>
<b>Net Costs to Judicial Branch Budget</b>		<b>\$ 9,712</b>
<b>Incremental Local Government Costs</b>		
Prisoner Transport	\$12,184	
Law Enforcement Officer Appearances	\$17,621	
County Attorney	\$ 3,650	
Mental Health/Human Services	\$ 1,653	
<b>Subtotal 3</b>		<b>\$ 35,108</b>
<b>Net Costs to State &amp; Local Government</b>		<b>\$ 44,820</b>
<b>Incremental Private Sector Costs</b>		
5 Law Firms	\$50,336	
2 Abstractors	\$19,968	
5 Banks	\$ 2,340	
3 Business Claims per week	\$ 4,960	
15 Citizen Litigants per week	\$10,904	
<b>Subtotal 4</b>		<b>\$ 88,508</b>
<b>Sum of Composite County Incremental Costs</b>		<b>\$133,328</b>

Based on parameters found during site visits, this study concludes that some incremental savings would accrue to the Judicial Branch budget in the form of travel time and costs for judges and court reporters. However, offsetting incremental costs for clerk of court document transportation were also identified. In addition, local participants observed the plan would require additional space for courtrooms, judge and court personnel, and court clerk document processing and storage. County officials expressed strong unwillingness toward building facilities in neighboring counties. Given recent experiences, county officials expressed concern about any local expenditures on behalf of the state court system, particularly in the absence of balanced long-term agreements with the neighboring counties and the state. If the Judicial Branch mandated consolidation by judicial fiat, it would be regarded as an unfunded mandate, in which case the Judicial Branch and legislature would most likely be responsible for funding any extraordinary facilities over and above space that is currently mandated and provided in each county.

So in sum, the Court Restructuring Plan results in net incremental costs—not savings—to the Judicial Branch. Furthermore, based on parameters developed from site visits to three counties, this study finds incremental costs for local government are 3.6 times larger than the incremental costs for the Judicial Branch. Finally, this study finds incremental costs for the private sector and citizens are 9 times larger than the incremental costs to the Judicial Branch budget.

An approximation of the statewide impacts using the estimated impacts for the composite county are presented Table 3.2. This study finds that the Court Restructuring Plan would create incremental costs of \$9.46 million annually for Iowa taxpayers, without generating any net incremental savings for the Judicial Branch budget. In fact the estimated statewide net incremental costs to the Judicial Branch are \$689,000 annually. Furthermore the incremental costs are \$2.49 million to local government and \$6.28 million to private business and citizens.

These estimates presume that the composite county represents the central tendency for the 71 counties designated for reduced court services. Therefore the statewide relationships across impact categories are similar to the composite county impact estimates. These estimates should only be regarded as a rough estimate of statewide impact. A more thorough examination of impacts county-by-county would potentially refine the estimated statewide impacts, however due to time and resource limitations, such refinements are beyond the scope of this preliminary study.

**Table 3.2 Estimated Statewide Direct Impacts of the 2001 Court Restructuring Plan Based on Composite County Impacts.**

<b>Items Assessed for Impact</b>	<b>Statewide Impact Estimate</b>
Incremental Savings to Judicial Branch Budget	\$ 226,845
Incremental Costs to Judicial Branch Budget	\$ 916,397
<b>Net Incremental Costs Judicial Branch Budget</b>	<b>\$ 689,552</b>
Incremental Local Government Costs	\$ 2,492,668
Net Costs to State & Local Government	\$ 3,182,220
Incremental Private Sector Costs	\$ 6,284,068
<b>Total Incremental Costs</b>	<b>\$ 9,466,288</b>

Site interviews were conducted with a cross-section of court system participants for the sample of counties. Many views were expressed regarding the likely impacts of the proposed but now tabled Court Restructuring Plan. The following views represent opinions raised by participants and do not necessarily reflect views of the author.

- Persons in each county raised concerns about the lack of hard evidence of savings and lack of justification for the regional centers selected in the plan. Participants at one site noted the designated regional center for their district was one of the few Iowa counties that had no jail. It was noted that a first logical step in developing a credible



statewide plan ought to be a facility and location assessments to determine which locations could provide the least inexpensive mix of facility remodeling and construction costs as well as travel for regional service for the system as a whole.

- Officials in the all three counties indicated that all of their regional centers would require remodeling, construction and/or rental of additional space. One clerk noted that space requirements could be reduced for records storage if extra staff were made available to convert historical records to electronic and CD format. Persons in each county observed that existing courthouse facilities were designed for single-county use not multiple-county use.
- Law enforcement universally raised concerns about increased prisoner transportation costs, increased housing costs if case backlog increases, increased time out-of-county away from local law enforcement duties, increased liability risks for transporting prisoners, increased pressure to settle out of court due to proximity and difficulty in accessing courts, responsibility for nonviolent residents who become violent during courtroom proceedings in a neighboring county, and increasing inability of potential physical abuse victims to access courts to receive protective orders.
- Concerns were raised about the lack of local opportunity for input into the plan. Participants at one site noted that they are opposed to moving the clerk office out of the county and are interested and willing to consider staff sharing arrangements first. However, if the Clerk's office is to be moved they strongly disagreed with the location of regional centers because they do not follow the local trade area patterns. They would have picked two different locations.
- Participants in all three counties strongly encouraged policymakers to rebalance the structure and management decision-making system for the Iowa court system. The current court administrative structure provides little or no mechanism for customer performance feedback. One participant stated that local officials provide facilities, pay utilities, and provide county attorneys, law enforcement, and mental health professionals, yet they have no formal mechanism for resolving issues of performance when they arise. For the court system to operate efficiently, effectively and conveniently, several state and local officials and litigants must act in concert. There is real danger for cost shifting when one or more of the stakeholders attempt to reduce their own costs without coordination or consideration of impacts on the other participants. Participants in each county suggested that under the Court Restructuring Plan, such performance failures would be more likely to occur in the future.
- Some participants raised concerns that the strong support by the Iowa Supreme Court for consolidating rural court services may raise potential concerns about judicial integrity and objectivity when presiding over future cases involving rural-urban legal matters that may come before the Supreme Court. Some participants in one county noted recent IPTV statements of the Chief Justice indicating a preference for spending time doing legal research and hearing important cases in comparison to managing the court system.

- Some participants objected to the idea of one branch of government vesting too much decision-making authority in one individual or small group of individuals without safeguards and checks and balances to assure that equal access to justice is provided. Several participants indicated that a majority of those who are required to use the court system have lower incomes and often do not have transportation. One asked, "Who do you take to court when court structure decisions are at issue in terms of equal access to the justice system and when the Supreme Court's decisions don't appear to meet the tests we require of others?"
- Work commuting patterns are often in the opposite direction from the proposed court service centers, therefore a short absence from work under the current system would likely become a half day or day long absence under the proposed system.
- Businesses who used to handle small claims over the noon hour would be required to either close shop or hire someone to manage the store while claims are filed at a more distant location.
- Abstractors and attorneys from two different sites indicated that searches of legal documents would need to be conducted at two sites instead of one under the current system if old records are kept at current courthouses while new documents are kept at the regional center. One abstractor estimated that they would likely have to raise fees by about 35 percent in order to hire a person part time to travel to the regional center.
- Abstractors and attorneys raised concerns about the demand for business shifting from the local community to the regional court center. Rather than hiring local people to travel to and from the regional center, branch offices might be established or competitors may benefit from shifting business patterns.
- Retailers, realtors, local leaders, and economic developers raised concerns about shifting shopping patterns, loss of existing and future local businesses that might result from the restructuring plan. One local official said their community has worked hard to maintain what we have and provide some successful initiatives for growth in the face of declining population trends. They object to the state unilaterally announcing plans that negatively impact their community and countermanding their investments in economic development efforts without seriously consulting their input.
- One local official expressed the opinion that every time the state does something it usually costs more money. When the state took over the Clerk offices in the 1980s, it was his observation that salaries rapidly increased above other local officials. It was his belief that local leaders and citizens have a much better record than the state in terms of saving tax dollars while providing quality services. "When we don't do things right, we hear about it immediately," he said.
- Several participants expressed concern regarding the inability of individuals in certain income groups and circumstances to access the court system. Often people who are

subject to physical abuse do not have access to a car and cannot afford to take a morning or afternoon off from work to travel to a regional court service center. To the degree that crime and need for justice is dispersed across the state, so must access to the court system if we are to provide equal access to justice. In their view, equal access to the justice system should be measured in terms of the citizens' costs to access it and the damages done if they cannot—rather than an arbitrary number of people served.

This study provides substantial evidence to conclude that current management structures of the Iowa Judicial Branch: (1) has not fully considered the adequacy of the facilities at designated regional court service centers, (2) has not consistently followed population criteria for determining districts, (3) has not considered incremental costs for local government, or incremental costs for private sector and citizens, (4) has not fully recognized the time and personnel investments required to implement an electronic document management system, and (5) has not fully analyzed the likely impacts of restructuring on the Judicial Branch budget or the court system as a whole.

#### **IV. Suggestions to Improve Court Performance Within the Present Structure**

Serious concerns were raised about increasing backlogs and customer service failures likely to accumulate during the coming year under staffing levels existing in January 2002. With varying degrees of qualifications, most participants in all three counties agreed that raising fines, fees, and court costs should be considered as a means for avoiding further staff cuts and for restoring many of the staff positions already eliminated. A 7.4 percent increase for all fines, fees and court costs statewide would raise \$5.5 million. Some fines and fees are set at constant dollar amounts. An annual inflation adjustment of 2.5 percent alone would justify more than a 25 percent increase over a decade period of time.

Several people indicated that many fees and costs have not been increased for several years and they provided anecdotal information regarding higher fines, fees and costs experienced in other states. Perhaps an annual inflation adjustment should be considered. Surcharges and increases should be avoided on certain crimes if the likelihood of collection is greatly reduced. Others suggested that costs for voluntarily bringing civil action or for probate should be targeted for higher increases. Probate involves a higher percentage of out-of-state heirs and inheritance and estate taxes have been reduced or eliminated in many cases.

When asked for additional suggestions to improve court system performance within the existing court system structure, the following observations were identified by various participants during the site visits to the sample of counties.

- Allow employees in the court system to accept short-term wage concessions to preserve system jobs until economy improves. A similar proposal was agreed to by state employees prior to the November special legislative session. One court

clerk related information regarding a survey of court clerks indicating a high level of agreement in favor of foregoing pay raises to preserve staff positions prior to the implementation of recent staff reductions.

- According to several site visit participants, court decision makers and policymakers should consider cutting court administration instead of those on the front line with the public. This would be more consistent with the restructuring proposals presented by the executive branch.
- Cuts in public hours are at exactly the wrong times for customer service according to many participants. The most convenient times for abstractors, bankers, attorneys and others would be at the beginning of the day, over the noon hour or at the end of the day. Therefore, perhaps nonpublic office hours should avoid noon hours and alternate mornings and afternoons on specified days of the week.
- Reduce judge preparation time for resolving cases by reducing the number of judges that preside over any one case. According to one judge, as many as six different judges may preside over various hearings and proceedings related to one case. Each judge normally would spend a few hours in preparation for a procedural decision. Reducing the number of judges involved would free up time for other cases. Juvenile proceedings are potentially a model. Efficiency must be balanced with accuracy. Allowing more than one judge to participate in a case helps to check each other's work. In addition, this suggestion may be more appropriate for urban centers in part due to the rotation of judges in rural areas.
- Allow Clerk's offices more flexibility in managing their offices and provide more opportunities for judges, attorneys, and law enforcement to provide input into the management of the courts. One clerk expressed frustration regarding inability to make local decisions regarding furniture design and placement to improve office performance as well as inability to purchase locally in emergency situations when supplies run out. Another expressed the opinion that State and District Court Administrators are not as frugal in their use of supplies as District Clerks are expected to be. One judge indicated that he was provided continuing education opportunities by the Judicial Branch on how high performance organizations manage effectively but is provided little opportunity or flexibility to provide input, improve the system, or put into practice what was learned. Several participants relayed feelings of inability to influence their working environment.
- Several participants expressed concern and skepticism over the Chief Justice's more recent request to drop the statutory requirement for a court clerk in each county even though it is stated that Clerk's offices would be retained in each county. "Where are the savings if the same work must be done in each county, but higher paid clerks are moved to regional centers or used to supervise multiple county offices," said one participant. "In either case front line people would be removed to add another layer of court administration."

- Develop facility contracts between counties and the Judicial Branch that require compensation if contracts are broken. One county reported significant expenditures for remodeling offices for district court administration only to have them move to a neighboring county within the next year.

## **V. Suggestions for Alternative Structures to Improve Court System Performance**

Some counties in western Nebraska, Kansas, and South Dakota have fewer than 1000 people, but they still have not reorganized. However, they do provide services by joint service provision and outsourcing as determined to be appropriate. Similarly in Iowa, 28E agreements allow local units of government to provide joint service provision, and contracting for services. Various studies show that the average number of 28E agreements have risen from an average of 17 per county in the late 1980s to 85 per county in the late 1990s. Therefore, Iowans should not assume that local government officials and local citizens are opposed to functional consolidation, restructuring, and outsourcing when savings can be identified, or quality of services and convenience improved. Furthermore, perhaps a study of court service provision in selected counties of the Great Plains would provide additional insights for court restructuring in Iowa.

In fact, rural leaders were supportive of transferring vital statistics services from the court clerks to county recorders during the mid 1990s after a study analyzing a sample of 15 counties showed that county recorder's staff were to be paid an average of 20 to 25 percent less than the court clerk staff who were currently performing the tasks. In this case, analysis demonstrated an opportunity for systemic savings to taxpayers. As a result, the General Assembly and Governor approved transfer of vital statistics functions.

Several alternative structures for improving court system performance were discussed during site visits. The following concepts were among the ideas discussed. While some participants expressed preference for one concept or another, no consensus emerged. In some cases opposition was expressed. Therefore, the ideas below are presented as alternatives for further consideration without preference, priority, or recommendation by the author.

- Provide incentives for counties to collaborate, even if on a two or three-county basis and allow the counties to decide what partnerships make the most sense for them. Create district court councils with attorneys, supervisors and other court users in each county and district to identify ways to improve court system performance.
- Allow the statewide court employee pay scales to adjust regionally and locally over time to prevailing local wages. A system of statewide pay scales would appear to underpay clerk staff in urban counties while overpaying clerk staff in rural counties relative to prevailing local wages. Thus, savings in rural counties could potentially be identified by adjusting pay scales to prevailing local wages in

rural counties. For example, one participant suggested the clerk is paid more than the county attorney in their county, which is not the case in more urban areas.

- Encourage court districts and sub-districts to involve local officials and court users to plan their own restructuring within judicial districts or sub-districts. Prior to recent staff cuts, one county shared a clerk staff member with a neighboring county. The person lived half way between the counties and no extra transportation costs to the system were involved.
- Allow supervisors and/or citizens the opportunity to vote and/or pay for any extra costs to the state Judicial Branch for keeping clerk and judicial services locally. One supervisor suggested an agreement to provide local resources in return for not moving services out of the county. He also suggested there was local precedent for such agreements with other agencies.
- Return the court clerk to an elected county office along with locally generated fees, fines and court costs to the County General Fund as it was prior to the 1980s. It was reported that supervisors in three counties have passed such resolutions in favor of studying this concept. A number of participants were opposed to the idea of elected clerks citing a belief that professional skills and training are required to perform clerk duties and are not necessarily guaranteed by elections. On the other hand, others suggested when local service problems develop there is a means and incentive to correct the problems quickly. Under the present system clerks have an incentive to respond to remote supervisors instead of local users of the system and those whom they work with locally. Many participants suggested this would provide flexibility in dealing with staff shortages or surpluses because budget requests would be defended annually and local people are in a better position to observe staffing performance.
- Return part of the county generated court revenue to the county general fund and bring the Clerk's office back to a county level office but retain it as an appointed position. Perhaps such appointments could be jointly made by the County Supervisors and District Judicial Council. County Extension Education Directors provide one potential model they are jointly interviewed and appointed by Iowa State University and local county extension councils.
- Combine or contract Clerk's office functions in rural counties with another local office, such as the County Recorder, Auditor, or Treasurer, so that greater staff efficiencies at prevailing local wages could be achieved. Or develop staff sharing arrangements among local county officials and local District Court Clerk offices. This approach could eliminate transportation costs that would be involved in sharing clerk staff across counties. Others expressed the view that there are limits to the effectiveness of cross-training. People lose skills and knowledge if they are used only periodically. Problems can develop in responding to a particular case if the expertise of the shared staff is not present in the Clerk's office when needed.

- Provide incentives for counties to restructure county government into a Policy Board and County Administrator form of governance similar to city councils. The Administrator would appoint local officials including court clerk
- Encourage city police officers to write fines under municipal codes and allow counties and sheriff deputies to do the same. This would allow a greater share of fine revenue to be retained locally and perhaps used to support local court functions in the Clerk's office in the face of understaffing. It also might help in retaining more influence over court services provided locally.
- Encourage pilot projects and case-by-case studies similar to schools restructuring initiatives. Participants in one county would have preferred that a two county sharing model be considered first or a district or multi-county approach similar to schools. Participants express the view that few consolidations result in savings, therefore a case-by-case approach involving willing partners with state incentives is preferred to mandatory consolidation. Local leaders and citizens felt they know better what they need and how to generate savings. Therefore a new state and local study process is needed if local stakeholders and state court decision makers are to identify systemic savings, costs, and performance impacts that might result.

Perhaps the greatest level of agreement in site interviews was expressed regarding the desire to be consulted locally and to have influence on restructuring plans before such plans are announced from Des Moines. It was observed that Iowa has experienced three rounds of school consolidations. In the school consolidation model, restructuring is not mandated by state fiat. Instead state incentives have been provided. Local leaders decide which districts they wish to enter into discussions with. Feasibility studies are conducted on finances, programs, facilities and all aspects of the potential consolidation. The Department of Education provides technical expertise for conducting the comprehensive feasibility studies. The final decisions rest with the people most directly involved.

There appeared to be fairly broad agreement that no further powers should be granted to the Supreme Court and Chief Justice until the Legislature has an opportunity to conduct its own study. Several participants expressed the opinion that the Legislature is the last line of defense and an important check and balance against judicial fiat. Specifically most participants were skeptical of the Chief Justice's most recent recommendations in part because of the lack of documentation and identifiable savings in the Court Restructuring Plan previously announced and quickly tabled.

When asked for recommendations on how such a legislative study might be done, participants indicated legislators, judges, court administrators, clerks, attorneys, law enforcement, supervisors, auditors, citizens, and economists were among those who should be involved in conducting the study. Some suggested the recent drivers' license issuance study was a legislative study model that should be considered. In that case, a legislative study involving several stakeholders was conducted after a four-year pilot demonstration project was conducted in six southwest Iowa counties. Based on the legislative study recommendations, the structural change was offered to other rural

counties on voluntary--rather than a mandatory basis. Many site visit participants suggested that such pilot projects should be considered for any new EDMS system and for a variety of other innovative court restructuring changes before final decisions by state and local leaders and citizens.

A final observation was that restructuring studies cost significant time and money. Local leaders and citizens will not be able to address some other issues on their local agenda during the time restructuring studies are done. There is an opportunity cost for addressing consolidation in that other issues may go unaddressed. One local leader suggested that preliminary assessments should be done by the state to determine whether any savings, productivity, or customer convenience enhancement indicators potentially exist and to identify areas of the state where they are most likely to exist. The implication was that a few counties or areas with the greatest potential for savings should be targeted rather than imposing statewide mandates. "Having the General Assembly mandate local restructuring studies would be considered an unfunded mandate, unless the full costs of such studies and expertise are provided at state expense," he said.

## **VI. Conclusions, Observations, and Implications for the Future**

The findings from the impact analysis and site visits to three Iowa counties provide substantial evidence to conclude that a structural flaw potentially exists in the management structure of the Iowa's Court system. In the face of budget reductions for the Judicial Branch, the Chief Justice, Supreme Court, and Judicial Council have acted to impose cuts in a manner that increases caseload efficiency indicators as represented by the Honsell formula, excluding the previous population adjustment. This approach potentially enhances measured indicators of clerk of court productivity as budget reductions are imposed. However, optimization of clerk productivity results in substantial increases in costs for local government, loss of public access, even greater increases in private sector costs, and rising customer service failure risks. As a result, the judicial system as a whole likely becomes less efficient and productive after implementation of the Court Restructuring Plan—not more efficient.

Why? Because the state Judicial Branch budget only represents one portion of the resources that should be managed efficiently if the system is to be managed efficiently. Efficient operation of a portion of court system does not necessarily result in the most efficient operation of the whole system of related functions that must act in concert for an efficient and effective justice system.

By its very nature, the Iowa court system is a hierarchical system with supreme authority vested in the Supreme Court and Chief Justice. The Judicial Branch by its very nature is designed to be an independent branch of government that stands in judgment over the other branches of government. Judges are thus not to be subject to political pressures or potential conflicts of interest in regard to legal research and judgments rendered on the cases presented.



However, the management and structure of the court system is potentially another matter. In Iowa, monopoly power has essentially been transferred with few legislative requirements or incentives to assure that the whole system is efficiently and productively managed. The question before Iowa citizens and policymakers is whether we can design a structure and management system that maintains appropriate Judicial independence, yet provides appropriate structure and incentives so that the system as a whole is managed efficiently and effectively—not just part of it. The Chief Justice and Supreme Court would appear to currently face a classic "fallacy of composition" as it relates to Judicial Branch objectives and objectives for Iowa court system as a whole [see Chapter 1 in *Agricultural and Food Policy, 4<sup>th</sup> Edition*. by Knutson, Penn and Flinchbaugh. (1998): p. 21-22.] Should the Chief Justice and Supreme Court objectives be to economize spending and performance measures for the Judicial Branch budget or to economize spending and performance for the court system as a whole—including spending by local government, private sector entities and Iowa citizens? Constitutional notions of equal access to justice for all would appear to support the latter notion and may be at odds with the more narrow set of objectives.

The current system requires the clerks of the district court to focus work efforts in response to performance indicators designed by district and state court administrators based at a remote location. An original primary function of district court administration was to schedule judges and court reporters for court service days out in the counties. Over time district court administration has become more involved in remote supervision. According to one site visit report, district court administrators are requiring clerks to implement a list of 53 new court caseload indicator statistics to allow greater analysis of caseload performance. However caseload performance indicators remotely analyzed do not necessarily measure professionalism, effectiveness of communications with court stakeholders, and user satisfaction and convenience.

Site visits conducted in this study revealed that one to three district meetings for clerks are held each year. For the sample of counties visited, district court administrators typically do not visit clerk offices in the counties except for hiring decisions, requests by clerks, or when a problem has come to the attention of the district court administration staff—which may occur indirectly through communication with judges. There does not appear to be a normal user/funder/customer feedback loop in the system, and those who experience customer service failures are not likely to know how to contact remote supervisors. Several observations from site visits suggest concern about judicial fiat being transformed into administrative fiat in lower administrative and management decisions with little regard for external input or cost of access to the courts by citizens.

In contrast, site visits reveal that a dozen or more different local participants must often act in concert for justice to be delivered effectively, efficiently, conveniently, and professionally. Judges, court reporters, clerks of court, court attendants, must act in concert with transport deputies, arresting officers, prosecuting attorneys, defense attorneys, mental health professionals, human services, and county officials who provide and maintain space in the form of courtrooms, clerk offices, judicial offices and related utilities. The district court clerk plays a critical role in providing communications, legal

documents, and transmitting judicial orders for other participants in the process. In addition, businesses rely on the court system for small claims and to resolve other disputes. Every real estate transaction requires abstractors to examine court records for judgments at the Clerk's office. Banks occasionally perform similar research at the Clerk's office for other types of pre-loan approval credit decisions. As Iowa citizens contemplate the future of the court system, a primary consideration for improving the system performance and systemic management efficiency would appear to be the development of a management incentive and court system structure decision-making process that recognizes the major stakeholders and citizens who use the court system.

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